

AMENDED IN SENATE MAY 23, 2002

AMENDED IN SENATE MAY 8, 2002

**SENATE BILL**

**No. 1628**

**Introduced by Senator Sher**

February 21, 2002

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An act to amend Section 40432 of the Public Resources Code, and to amend Section 186 of the Water Code, relating to resources, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1628, as amended, Sher. Resources: litigation.

(1) Existing law requires the Attorney General to represent the California Integrated Waste Management Board and the state in litigation concerning affairs of the board, unless the Attorney General chooses to represent another state agency that is a party to the action. In that case, the legal counsel of the board is required to represent the board.

This bill, instead, would authorize the board to (a) request the Attorney General to represent the board in addition to the other state agency, (b) contract for the services of private counsel, or (c) authorize the legal counsel of the board to represent the board. The bill would authorize the Attorney General to represent both the board and the other state agency upon receiving the written consent of both the board and the other state agency to that representation.

(2) Existing law requires the Attorney General to represent the State Water Resources Control Board and the state in litigation concerning affairs of the board, unless another state agency that is represented by

the Attorney General is a party to the action. In that case, the legal counsel of the board is required to represent the board.

This bill, instead, would authorize the board to (a) request the Attorney General to represent the board, a regional water quality control board, or both, in addition to the other state agency, (b) contract for the services of private counsel for those purposes, or (c) authorize the legal counsel of the board to represent the board, or the regional board, or both. The bill would authorize the Attorney General to represent the board, regional board, or both, and the other state agency upon receiving the written consent of both the board and the other state agency to that representation.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 40432 of the Public Resources Code is  
2 amended to read:

3 40432. The Attorney General shall represent the board and  
4 the state in litigation concerning affairs of the board, unless the  
5 Attorney General represents another state agency that is a party to  
6 the action. In that case, the Attorney General may represent the  
7 board with the written consent of the board and the other state  
8 agency, the board may contract for the services of private counsel,  
9 *subject to Section 11040 of the Government Code*, or the legal  
10 counsel of the board may represent the board, ~~subject to Section~~  
11 ~~11040 of the Government Code~~. Sections 11041, 11042, and  
12 11043 of the Government Code are not applicable to the board.

13 SEC. 2. Section 186 of the Water Code is amended to read:

14 186. (a) The board shall have any powers, and may employ  
15 any legal counsel and other personnel and assistance, that may be  
16 necessary or convenient for the exercise of its duties authorized by  
17 law.

18 (b) For the purpose of administration, the board shall organize  
19 itself, with the approval of the Governor, in the manner it deems  
20 necessary properly to segregate and conduct the work of the board.  
21 The work of the board shall be divided into at least two divisions,  
22 known as the Division of Water Rights and the Division of Water

1 Quality. The board shall appoint a chief of each division, who shall  
2 supervise the work thereof and act as technical adviser to the board  
3 on functions under his or her jurisdiction.

4 (c) The Attorney General shall represent the board, or any  
5 affected regional water quality control board, or both the board and  
6 the regional board, and the state in litigation concerning affairs of  
7 the board, or a regional board, or both, unless the Attorney General  
8 represents another state agency that is a party to the action. In that  
9 case, the Attorney General may represent the board, the regional  
10 board, or both, with the written consent of the board and the other  
11 state agency, the board may contract for the services of private  
12 counsel to represent the board, the regional board, or both, *subject*  
13 *to Section 11040 of the Government Code*, or the legal counsel of  
14 the board may represent the board, the regional board, or both;  
15 ~~subject to Section 11040 of the Government Code~~. Sections 11041,  
16 11042, and 11043 of the Government Code are not applicable to  
17 the board. The legal counsel of the board shall advise and furnish  
18 legal services, except representation in litigation, to the regional  
19 boards upon their request.

20 SEC. 3. This act is an urgency statute necessary for the  
21 immediate preservation of the public peace, health, or safety  
22 within the meaning of Article IV of the Constitution and shall go  
23 into immediate effect. The facts constituting the necessity are:

24 In order to protect the public health, safety, and welfare by  
25 reducing certain state litigation costs, at the earliest possible time,  
26 it is necessary that this act take effect immediately.

